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Thomas A. Miller
Miller, Matthias & Hull
Suite 2350
One North Franklin Street
Chicago, IL 60606

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of Cragg et al.	:	
Application No. 10/069,107	:	Decision on Petition
Filing Date: December 16, 2002	:	
Attorney Docket No. 29985/05-112C	:	

This is a decision on the petition under 37 CFR 1.181, filed March 20, 2006, to withdraw the holding of abandonment. This is also a decision on the petitions filed in the alternative under 37 CFR 1.137(a) and 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

Facts:

A request to withdraw as attorneys and agents of record was filed on May 8, 2005. Per the request, correspondence was no longer to be sent to the law firm of Burns Doane Swecker & Mathis LLP. The request stated all future correspondence should be sent to:

Thomas Miller, Esq.
Marshall, Gerstein & Borun
233 South Wacker Drive
6300 Sears Tower
Chicago, IL 60606-6402

On June 8, 2005, the Office notified the former representatives of record that the request for withdrawal had been accepted and entered.

A Final Office action was mailed June 20, 2005.

A revocation of prior powers of attorney and power of attorney was filed October 19, 2005. The paper included a request to change the correspondence address. The paper applied to a large number of applications. The record fails to indicate a separate copy of the paper was filed for the instant application.

MPEP 601.03 states,

Unless the correspondence address is designated as the address associated with a Customer Number, a separate notification must be filed in each application for which a person is intended to receive communications from the Office.

The revocation and power of attorney was not matched with the instant file. As a result, the address of record remained unchanged.

A Request for Continued Examination, request for extension of time, and amendment were filed on October 31, 2005. The first paragraph in the Remarks section stated in part,

The Power of Attorney and Revocation of Prior Power of Attorney is forthcoming. The undersigned hereby verifies that he is authorized by the assignee of the present application to file this paper.

A Notice of Non-Complaint Amendment was mailed to the address of record on November 3, 2005.

The record indicates the Notice was not received at the address of record until March 3, 2006.

The law firm at the address of record forwarded the Notice to the new law firm of Miller, Mathias and Hull. The new law firm received the Notice on March 6, 2006.

The instant petition was filed on March 20, 2006 (Certificate of Mailing Date of March 16, 2006).

Discussion:

In certain circumstances, an applicant may have the Office reset a period for reply due to late receipt of an Office action. The Office will grant a request to restart the time period to run from the actual date of receipt if the following requirements are met:

- (1) the petition is filed within 2 weeks of the date of receipt,
- (2) a substantial portion of the set reply period has elapsed, and
- (3) the petition establishes the date of receipt of the Notice to the satisfaction of the Office.

Petitioner has met the requirements to have the period of time reset to begin running on March 3, 2006. A reply to the Notice of Non-Compliant Amendment was filed with the petition on March 20, 2006. Therefore, the reply is timely since it was filed within the new period of time to reply.

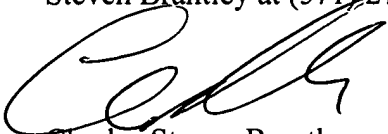
For the reasons above, the application is not abandoned.

Since the petition under 37 CFR 1.181 to withdraw the holding of abandonment has been granted, the petitions under 37 CFR 1.137(a) and 37 CFR 1.137(b) are dismissed as moot.

The Office charged petitioner's deposit account \$500 for the petition under 37 CFR 1.137(a). The \$500 fee will be credited back to petitioner's deposit account.

Technology Center Art Unit 3736 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will treat the amendment filed on March 20, 2006, as a timely reply to the Notice of Non-Compliant amendment mailed on November 3, 2005.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions